UNITED STATES DISTRICT COURT DISTRICT OF MASSACHUSETTS

JOHN LYNCH,)
Plaintiff,)
v.) Civil Action No. 13-11441-LTS
TOM MINAS, M.D.,)
Defendant.)))

ORDER FOR REASSIGNMENT AND REPORT AND RECOMMENDATION

November 19, 2013

SOROKIN, C.M.J.

Plaintiff John Lynch brought this action against Dr. Tom Minas in June 2013, alleging failure to obtain informed consent and invoking federal jurisdiction based on diversity of citizenship. Doc. No. 1. The case was promptly assigned to the undersigned Magistrate Judge, Doc. No. 2, and summons issued, Doc. No. 3. On October 17, 2013, when more than 120 days had passed and no proof of service had been filed, the Court issued an Order to Show Cause explaining the service requirements set forth in Rule 4(m) of the Federal Rules of Civil Procedure, and requiring Lynch, who is represented by counsel, to show cause within fourteen days why the action should not be dismissed for failure to effect service. Doc. No. 4. Lynch has neither filed proof of service nor responded to the Order to Show Cause, and the time for doing so has passed.

Accordingly, it is ORDERED that the Clerk shall reassign this case to a District Judge, as all parties have not consented to final assignment to a Magistrate Judge pursuant to 28 U.S.C. § 636(c). Because Lynch has failed to effect service or to respond to the Court's October 17,

2013 Order, this Court hereby RECOMMENDS to the District Judge to whom this case is reassigned that this action be DISMISSED WITHOUT PREJUDICE pursuant to Fed. R. Civ. P. 4(m) and Local Rule 4.1(b).¹

SO ORDERED.

/s / Leo T. Sorokin

Leo T. Sorokin United States Magistrate Judge

¹The Parties are hereby advised that any party who objects to these proposed findings and recommendations must file a written objection thereto within fourteen days of receipt of this Report and Recommendation. The written objections must identify with specificity the portion of the proposed findings, recommendations, or report to which objection is made, and the basis for such objections. See Fed. R. Civ. P. 72; 28 U.S.C. § 636(b). The parties are further advised that the United States Court of Appeals for this Circuit has repeatedly indicated that failure to comply with Rule 72(b) will preclude further appellate review of the District Court's order based on this Report and Recommendation. See Keating v. Sec'y of Health & Human Servs., 848 F.2d 271 (1st Cir. 1988); United States v. Valencia-Copete, 792 F.2d 4 (1st Cir. 1986); Scott v. Schweiker, 702 F.2d 13, 14 (1st Cir. 1983); United States v. Vega, 678 F.2d 376, 378-79 (1st Cir. 1982); Park Motor Mart, Inc. v. Ford Motor Co., 616 F.2d 603 (1st Cir. 1980); see also Thomas v. Arn, 474 U.S. 140 (1985).